

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

DRAFT FOR DISCUSSION ONLY

**GUIDELINES FOR THE SUPPLIER OF LAST RESORT
FOR THE CONTESTABLE MARKET**

Pursuant to Section 43 of Republic Act No. 9136, hereinafter referred to as the Act, its Implementing Rules and Regulations (IRR), and the Distribution Services and Open Access Rules (DSOAR), the Energy Regulatory Commission (ERC) hereby promulgates the following Guidelines for the Supplier of Last Resort for the Contestable Market.

**ARTICLE I
GENERAL PROVISIONS**

Section 1. Objectives

- a. To protect the interest of end-users in the Contestable Market by ensuring the provision of continuous supply of electricity to them in the event that the Retail Electricity Supplier (RES) is unable to continue providing service;
- b. To encourage end-users in the Contestable Market to choose their supplier of electricity upon the commencement of retail competition and open access;
- c. To establish procedures that shall facilitate arrangements among RES, SOLR, DUs and Customers for Last Resort Supply.
- d. To identify information required from participants and facilitate information flow concerning a Last Resort Supply.

Section 2. Scope

These Guidelines shall apply to:

- a. Retail Electricity Suppliers (RES');
- b. Distribution Utilities (DUs);
- c. Suppliers of Last Resort (SOLR); and
- d. The Contestable Market

In the initial phase of retail competition and open access, the DU shall perform the duties and obligations of a SOLR for the Contestable Market in a non-discriminatory manner. DUs which lack the capability to participate in the WESM, other than the required level of participation in the Act, may not qualify to serve as SOLR in their respective franchise areas. In this case, a qualified DU, as determined by ERC, shall serve as SOLR. A DU serving as SOLR to Customers outside its franchise area need not apply for a RES license from ERC as SOLR service is regulated and non-competitive.

SOLR service is regulated by ERC as a back-up supply to the Contestable Market for the contingency that a Customer does not have a supply of electricity from a RES. SOLR service is not service to the Captive Market and is not RES service by the DU.

In these Guidelines, the SOLR business segment and the distribution wheeling business segment of the DU shall be considered as separate entities, as defined in Article I Section 4 (Definition of Terms).

Section 3. Special Provision

A DU shall provide a clear separation of accounts for its business/ financial activities as a SOLR, in addition to the five (5) business segments provided in the Business Separation Guidelines (BSG).

Section 4. Definition of Terms

As used in these Guidelines, the following terms shall have the following respective meanings:

Act	Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001.
Billing Cycle	A period not to exceed one (1) month bound by start and end dates that the RES, DU and SOLR use to determine when a Customer used a service.
Business Day	A day other than a Saturday, a Sunday or an official Philippine national or local public holiday.
Business Separation Guidelines (BSG)	The set of rules prescribing the clear separation of accounts between the regulated and non-regulated business activities of electric power industry participants.
Contestable Market	The electricity end-users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with the Act.

Customer	An electricity end-user that belongs to the Contestable Market.
Customer Segment	A category of end-use customers connected to the distribution system having similar consumption characteristics for regulated distribution services with respect to that regulated distribution system, based on their network configuration and consumption profile as measured by the number of connections, the energy throughput (kWh), the non-coincident peak load (kW), the coincident peak load (kW), or any other physical measure as approved from time to time by ERC. A Customer Segment of a particular DU includes all of the customers who are charged the same tariff.
Distribution Services and Open Access Rules (DSOAR)	The set of rules pertaining to the provision of services by a DU to captive and contestable customers, the RES, other DUs, and generators, under the new competitive environment created by the Act.
Distribution Utility (DU)	<p>An entity that owns, operates, or controls one or more distribution systems such as but not limited to:</p> <ul style="list-style-type: none"> a) Electric Cooperatives; b) Privately-Owned Distribution Utilities; c) Local Government Unit Owned-and-Operated Distribution Systems; d) Entities duly authorized to operate within Economic Zones; and e) Other duly authorized entities engaged in the distribution of electricity. <p>While the DU shall also be the SOLR in the initial phase of retail competition, in these Guidelines, the term “DU” shall only refer to the distribution business segment of a distribution utility as provided in the BSG, to differentiate it from its SOLR business segment.</p>
Distribution Wheeling Service (DWS)	The conveyance of power throughout a distribution system to meet the demand of end-users.
Energy Regulatory Commission (ERC)	The independent and quasi-judicial regulatory agency created under Section 38 of the Act.

Last Resort Supply	The supply of electricity that a Customer will receive from a SOLR. The Last Resort Supply is intended to be a temporary service until the Customer transfers to a RES.
Last Resort Supply Event	The events enumerated in Article II, Sections 1 and 2.
Magna Carta for Residential Consumers	The set of rules promulgated by ERC prescribing the rights and obligations of residential electricity consumers.
Retail Electricity Supplier (RES)	Any person or entity licensed by ERC to sell, broker, market or aggregate electricity to end-users. While a DU that is engaged in the competitive supply of electricity to the Contestable Market in its franchise area is exempt from securing a RES license, any reference of RES in these Guidelines shall also refer to the DU's retail electricity supply business for the Contestable Market in its franchise area.
SOLR Contract	A contract that relates to the provision of Last Resort Supply to a Customer by a SOLR.
Special Meter Reading	An actual meter reading performed by a DU upon request of a RES, Customer or SOLR on a date that is different from the regularly scheduled meter reading date.
Supplier of Last Resort (SOLR)	A regulated entity with the obligation of serving end-users in the Contestable Market following a Last Resort Supply Event.
Uniform Business Practices (UBP)	The set of rules promulgated by ERC which prescribes the standardized business rules for DU-RES interactions, relating to Customer enrollments, switching, exchange of metering, billing and payment information, and the like.
Universal Charge	The charge, if any, imposed to all end-users for the recovery of the stranded cost and other purposes pursuant to Section 34 of the Act.

**ARTICLE II
CONDITIONS FOR REVERTING TO SOLR**

- Section 1. The Customer shall immediately be served by the SOLR in the event the Customer fails to:
- a. Exercise its power to choose its supplier of electricity upon the implementation of retail competition and open access.
 - b. Find a willing RES.
 - c. Otherwise self-procure supply.
- Section 2. A SOLR shall provide retail electricity services to a Customer that has ceased to receive service from its RES, and who has not selected a new RES yet. A Last Resort Supply Event shall be triggered by any of the following conditions:
- a. The RES has ceased to operate;
 - b. The RES' license has been revoked or not renewed by ERC;
 - c. The arrangements for DWS between the RES and the DU have been terminated;
 - d. The RES is no longer permitted to exchange electric energy through the WESM;
 - e. The RES has given notice to the ERC that it will no longer provide supply services;
 - f. RES' failure to provide electricity supply for reasons other than the above;
 - g. Any other events the ERC may deem as a Last Resort Supply Event.
- Section 3. A Customer disconnected by a RES or a DU for non-payment cannot use SOLR service until such Customer pays in full any and all amounts, including any applicable charges, due to the RES or DU.

ARTICLE III SOLR OBLIGATIONS

- Section 1. The SOLR being a DU, shall supply Customers without prejudicing its ability to continue supplying its existing captive and contestable (if any) customers. The SOLR shall maintain the supply of electricity to such Customers until they transfer to a new RES, unless otherwise provided in Article V, Section 4.

- Section 2. The SOLR is responsible for obtaining resources and Last Resort Supply needed to serve a Customer once it has been notified that it should serve that Customer. The SOLR shall supply the affected Customer immediately, or not later than the next two (2) hours, after notification of the Last Resort Supply Event.
- Section 3. The SOLR shall administer the process for transferring those Customers, including metering and billing arrangements.
- Section 4. The SOLR is responsible for all costs of providing electricity to Customers from the time the switchover or initiation of service has commenced until such time that the Customer leaves SOLR service. The Customer, in turn, is responsible for paying all charges based on SOLR rate for the duration of SOLR service.
- Section 5. The SOLR shall, not later than one hundred twenty (120) days after the promulgation of these Guidelines, submit its pro forma terms and conditions for the supply of electricity to the ERC for approval.
- Section 6. The SOLR shall offer a basic, standard retail service package, which will be limited to:
- a) basic energy supply service; and
 - b) consolidated / single billing service
- Section 7. SOLR is required to collect Universal Charge from all of its Customers on a monthly basis, and shall comply with the Rules Governing the Collection of Universal Charge and the Guidelines and Procedures Governing Remittances and Disbursements of Universal Charge, issued by ERC.

**ARTICLE IV
NOTIFICATION AND PROVISION
OF CUSTOMER INFORMATION TO SOLR**

- Section 1. If a RES decides to cease its operations, it shall provide at least thirty (30) days advance written notice to the ERC, DU, all affected Customers and other concerned entities.
- Section 2. If the DWS agreement between RES and DU is due for termination, the RES shall inform the ERC and its Customers at least thirty (30) days before such date of termination.
- Section 3. If there is a suspension notice from the Market Operator, the RES shall immediately inform the ERC, DU, and affected Customers of such notice, and the effective date of suspension.
- Section 4. The DU shall provide the SOLR with the information of those Customers who have not chosen a new RES, under Sections 1, 2 and

3 of this Article, not later than three (3) Business Days prior to the scheduled cessation, termination or suspension of RES' operations.

The Customer information includes:

- a. Billing address and service address, if different ;
- b. Customer's account number;
- c. Meter reading date or cycle and reporting period;
- d. Billing date or cycle and billing period;
- e. Meter number;
- f. DU's rate class and subclass, classification;
- g. Description of usage measurement type and reporting period;
- h. The most recent twelve (12) months of historical usage.

Section 5. The DU shall provide the SOLR, with the information of those Customers who have not chosen their supplier of electricity, as provided in Article II Section 1a., not later than three (3) Business Days prior to the relevant commencement date of retail competition and open access.

Section 6. If a RES' license is suspended or revoked, the ERC shall immediately publish the name of the RES in the ERC website and a newspaper of nationwide circulation.

Section 7. In the case where a RES' license is revoked by the ERC, the DU shall provide the Customer's information to the SOLR as soon as practicable, but in no event later than three (3) Business Days, after the license has been revoked.

Section 8. The DU shall cooperate and endeavor to assist the SOLR to have access to Customer information to ensure that sufficient Customer information will be available in relation to the provision of Last Resort Supply.

Section 9. After the Customer has been informed of the scheduled cessation, termination or suspension of its current RES' operations, as provided in Sections 1, 2 and 3 of this Article, said Customer shall consider entering into a contract with a new RES. Should the Customer fail to find a new RES within three (3) Business Days prior to the scheduled cessation, termination or suspension, said Customer may enter into a contract with the SOLR for the provision of Last Resort Supply.

ARTICLE V

PROCEDURES FOR THE ASSUMPTION OF SERVICE BY THE SOLR

- Section 1. In the event that a RES suddenly ceases operation without having the opportunity to inform concerned parties in advance, the SOLR shall immediately provide service to affected Customers.
- 1.1 The entity designated by ERC to administer settlements or the DU, shall inform the SOLR and ERC as soon as practicable, of the commencement of the SOLR's obligation to supply the failed RES' Customers;
 - 1.2 The DU shall provide the Customer information to the SOLR as soon as practicable but in no event later than three (3) Business Days after the occurrence of the Last Resort Supply Event.
 - 1.3 The SOLR shall immediately inform Customers:
 - a) that a Last Resort Supply Event has occurred in respect of the Customers' RES;
 - b) that the Customers and itself, are deemed to have entered into a contract for the provision of Last Resort Supply in accordance with the terms and conditions approved by ERC under Article III, Section 5.
 - c) the details of the terms and conditions of the SOLR contract;
 - d) about its right to transfer to a RES anytime after the commencement of the SOLR service, subject to the provisions of Article VI, Section 2;
 - e) how and where to obtain information on all licensed RES'.
 - 1.4 The SOLR shall immediately, or in no event later than two (2) Business Days upon the commencement of the Last Resort Supply, provide its Customer a copy of the SOLR Contract which was deemed to have been entered into by the SOLR and the Customer, following a Last Resort Supply Event. A SOLR Contract must allow for termination when the Customer takes supply from another RES.
 - 1.5 The SOLR shall request the DU to take a special meter reading of the Customer's usage to delineate the consumption between the failed RES and the SOLR. The DU shall conduct special meter reads immediately from date of receipt of the SOLR request, subject to special meter reading charges. The results of the special meter reading shall be sent to the SOLR, as soon as practicable, upon receipt of the request.
 - 1.6 The date of the final meter reading shall be the commencement date of SOLR service.

- 1.7 The SOLR and the Customer shall sign the contract deemed to have been entered into by them, not later than five (5) Business Days upon the commencement of the Last Resort Supply, for record purposes.
- 1.8 If the Customer is not willing to avail of SOLR service, it should inform the SOLR either by fax, e-mail, short messaging service (SMS) or any other appropriate means which is fast and which has a time-stamp, of its non-interest to avail of said service. In such case, the Customer's electric service shall be disconnected and will not be reconnected until it enters into a contract with a RES.

Section 2. In cases where the Customer does not choose its supplier of electricity upon the commencement of retail competition and open access, the DU shall immediately switch the Customer to SOLR service, following the procedures in Section 1 of this Article and Section 5 of Article IV.

Section 3. Billing and Payment

- 3.1 A Customer who has a record of being delinquent in the payment of its bills for the past three (3) years, shall make a deposit to the SOLR equivalent to one (1) month total estimated billing based on the average of previous three (3) months' demand. Such deposit shall be fully refundable upon termination of SOLR service, with interest paid on the deposit in accordance with the prevailing interest rate for savings deposit approved by the Bangko Sentral ng Pilipinas (BSP), less any arrears that have accrued in the Customer's account, except when such arrears are restrained under legal contest.

The one (1) month deposit shall be given by the Customer no later than three (3) Business Days upon the commencement of the Last Resort Supply. SOLR service shall be terminated if the Customer fails to make said deposit.

- 3.2 The Customer shall be billed for electricity services either twice (2x) a month, monthly or for the period the SOLR served the Customer.
- 3.3 SOLR billing statements, which must be in a format prescribed by ERC, shall reflect the itemized and total charges for SOLR services. If the DU is also the SOLR, the bill shall clearly indicate that it is the SOLR that is billing and not the DU.
- 3.4 SOLR billing statements shall include SOLR's contact numbers, which are different from the DU's numbers, as well as ERC's customer hotline numbers and website.

Section 4. Disconnection and Termination of SOLR Service

- 4.1 In the event the Customer fails to pay the SOLR for services rendered on the due date, the SOLR may send a forty eight (48) hour notice of

disconnection to the Customer and the DU shall be informed of such notice. If the Customer fails to pay the amount within the 48-hour period, the SOLR shall have the right to request that the DU disconnect said Customer, and the DU shall execute such request within twenty four (24) hours. The DU shall not reconnect the Customer until the latter settles all obligations owed to the DU and SOLR. Disconnection rules in the Magna Carta for Residential Consumers shall not apply here.

- 4.2 Electricity service may be disconnected by the DU without notice only if a dangerous or hazardous condition arises. Service will not be reconnected until the dangerous or hazardous condition has been addressed.
- 4.3 If a Customer chooses to terminate SOLR service because it has entered into a retail supply contract with a new RES, electricity service shall not be terminated unless the Customer has been successfully switched to that RES.

ARTICLE VI TERM OF SOLR SERVICE

- Section 1. The SOLR may serve a Customer for a minimum of fifteen (15) days, or for any period preferred by said Customer , except for conditions specified in Article V Sections 4.1 and 4.2. If a Customer does not transfer to another RES at the end of a Billing Cycle, SOLR Contract shall be automatically renewed. SOLR Customers can switch to another RES at any time if they wish to.
- Section 2. If a Customer decides to cancel SOLR service and transfer to another RES before the end of a Billing Cycle, an exit/termination fee shall be charged by SOLR to Customers whose energy that was used for SOLR service was sourced through bilateral contract. Said termination fee shall be equivalent to the cost of unused power (contracted energy vs. actual reading multiply to agreed rates), which is included in the SOLR Contract.
- Section 3. If a Customer transfers from the SOLR to a new RES, the final bill from the SOLR will be offset against the Customer's deposit and any remaining balance and interest earned shall be refunded to the Customer within thirty (30) days from the final meter read date.

ARTICLE VII SOLR RATE

- Section 1. The SOLR shall charge the relevant competitive market-clearing WESM energy prices for the energy consumed by a Customer during all hours of the monthly billing period, plus a premium to cover incremental

administrative and overhead expenses, subject to the approval and/or determination of ERC. The relevant market-clearing WESM energy prices shall be those prices that would have been paid by the Customer as if it were purchasing energy directly through WESM.

Section 2. The SOLR shall also bill Customers the last approved unbundled monthly supply charge for the relevant Customer Segment and pass through all approved Distribution Wheeling Service, system loss charges, and metering costs charged by the DU and transmission service costs charged by the transmission provider. System loss charges shall be computed using the same methodology used for the Captive Market and based on the energy costs of the Customer. All costs of SOLR service shall be transparently disclosed in an unbundled fashion in the billing to end-users taking SOLR service. The SOLR may file an application with ERC at any time for approval of reasonable unbundled supply charges and system loss charges applicable to SOLR service.

Section 3. The SOLR may purchase power for Last Resort Supply through Wholesale Electricity Spot Market (WESM) and/or through a bilateral contract with Independent Power Producers (IPPs).

ARTICLE VIII DISPUTE RESOLUTION

Any dispute between parties shall be dealt with through the dispute resolution procedure as provided in the DSOAR.

ARTICLE IX TRANSITORY PROVISION

All qualified DUs shall perform the duties and obligations as SOLR upon implementation of retail competition and open access until the ERC issues a decision as to whether to make available on a competitive basis the opportunity to provide SOLR service to other entities.

ARTICLE X REPORTORIAL REQUIREMENTS

Each SOLR shall submit to ERC, within thirty (30) days after the end of every quarter, the following information:

For each month of the reporting quarter:

- a. List of Customers per Customer class which were serviced by the SOLR.

- b. List of Customers per Customer class whose service was disconnected for non-payment of SOLR bill, and the amount owed to the SOLR at the time of disconnection.
- c. List of Customers per Customer class that transferred from SOLR to new RES, and the names of new RES to which each Customer has transferred.
- d. Each Customer's reason(s) for reverting to SOLR.
- e. Length of time each Customer was served by the SOLR.
- f. Such other information or documents that the ERC may require.

ARTICLE XI SEPARABILITY

If for any reason any provision of these Guidelines is declared unconstitutional or invalid by final judgment of a competent court, the other parts or provisions hereof which were not affected thereby shall continue to be in full force and effect.

ARTICLE XII AMENDMENTS

The ERC shall amend and expand these Guidelines from time to time where this may be necessary to meet the needs of the Customers, DU, RES, SOLR and the ERC. Before making any significant revisions to these Guidelines the ERC will undertake public consultation as appropriate.

ARTICLE XIII SANCTIONS

The ERC shall impose the appropriate fines and penalties for any violation or non-compliance with these Guidelines, pursuant to "Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of R.A. 9136".

ARTICLE XIV EFFECTIVITY

These Guidelines shall take effect on the fifteenth (15th) day following its publication in a newspaper of general circulation in the country.

Pasig City, [place date here]

RODOLFO B. ALBANO, JR.
Chairman

OLIVER B. BUTALID
Commissioner

JESUS N. ALCORDO
Commissioner

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner